

## **Minutes of the South Dakota**

### **Advisory Council on Aging**

**December 15, 2014**

The Advisory Council on Aging meeting was held via conference call on December 15, 2014.

Present: Gerald Beninga, Gale Walker, Donna Seaton, Carol Cameron, Dick Palmer, Ruth Thomas, Jen Porter and Sarah Jennings.

Other Attendees: Marilyn Kinsman, ASA Division Director, Yvette Thomas, Deputy ASA Division Director and Vickie Maberry ASA recording secretary.

Chairman Gerald Beninga called the meeting to order at 10:30 a.m. (CST).

The proposed agenda was reviewed. Marilyn Kinsman requested an addition to the agenda to include a presentation on the Home and Community Based Settings Final Rule. A motion to approve the agenda with the proposed addition was offered by Carol Cameron and seconded by Dick Palmer. Motion was passed unanimously.

The Minutes of the May 15, 2014 meeting were reviewed. A motion to approve the minutes as written was offered by Donna Seaton and seconded by Carol Cameron. Motion was passed unanimously.

Jamie Seiner, ASA Program Specialist and Program Director for South Dakota's Senior Health Information and Insurance Education (SHIINE) program shared that Technical Frontiers, Inc., the data management group for the national SHIP (Senior Health Information Program), released data from the reporting period of October 1, 2013 – September 30, 2014, indicating SD SHIINE was rated number one among all 54 states and territories. This rating was achieved by realizing ways to collect data from agencies that partner with SHIINE; increasing promotional efforts and recruiting new volunteers in underserved areas. The rankings are determined by measuring a total of eight performance measures. The performance measures used to determine the ranking are based on how many beneficiaries, disabled individuals and low income individuals were served per capita and the number of public and media events held to promote the program. Improvement from the past year is also considered while determining the performance measure scores. South Dakota had 152,663 Medicare beneficiaries during that time period and the SHIINE Program assisted 25,299 individuals. Considering the increased number of people served and the improvement from the past year, the overall performance measure score moved SHIINE from a ranking of 23<sup>rd</sup> in

the last reporting period to 1<sup>st</sup> for this reporting period. The news release can be found online at <http://ds3.sd.gov/news/2014/shipaward.asp>.

Jamie also reminded members that Medicare's Open Enrollment period was October 15<sup>th</sup> – December 7<sup>th</sup>. This year was challenging as 100% of the plans in South Dakota had made changes, resulting in an increased number of counseling sessions across the state. Newly established sites and new volunteers helped the SHINE program manage the influx of Medicare beneficiaries needing assistance.

The SHINE director continues to work on ways to expand service across South Dakota; currently, she is collaborating with South Dakota Retirement System (SDRS). Jamie will join SDRS on their tour across the state giving Medicare presentations at their Pre-Retirement Seminars. Jamie is also developing a New to Medicare Packet for SDRS to distribute to their members that are near Medicare age. Next year SDRS has committed to partner with SHINE to promote counseling sites across the state by informing their members where the sites are and how they can schedule an appointment. Jamie is participating in a joint presentation on December 16 with representatives from the Centers for Medicare and Medicaid Services (CMS) and Indian Health Services (IHS) in Rapid City.

This past year, Jamie created a training and resource manual that was very well received by the volunteers dedicated to the SHINE program. Quality of trainings and resources for the SHINE volunteers will continue to be a focus so materials and information are current and useful.

Marilyn Kinsman discussed the Department of Health's proposed administrative rules changes regarding assisted living centers. Marilyn reminded members that the concern regarding caring for individuals with dementia in an assisted living center initially arose because some residents with dementia and their families felt like they were unjustly being forced into nursing home level of care simply because the resident needed a little more assistance than what is currently allowed in an assisted living setting. For the past few years, both the Department of Social Services and Health have been involved in discussions regarding this concern and have held meetings with the Assisted Living Workgroup, Dementia Care Workgroup, and most recently, a small group of long term care industry representatives was convened under the leadership of the Governor's Office. The Department of Health has recently moved forward with proposed changes to Assisted Living Center regulations including special licensing options for assisted living centers that would allow them to provide enhanced services such as feeding assistance and total assistance with activities of daily living.

As an optional service, assisted living centers will be allowed to admit/retain residents who are dependent on nutrition and hydration dining assistance. Assisted living centers

opting to be licensed for this optional service must also be licensed to provide therapeutic diets. Feeding assistance must be performed by a CNA, or individuals who have completed an approved nutrition and hydration dining assistance program. The dining assistance training program must entail 10 hours of training, which is what is required of the nursing home nutrition and hydration dining assistance programs. Residents requiring feeding assistance shall be assessed by nursing staff prior to participating in the program and facilities licensed for this optional service must have a full-time licensed nurse working the day shift and a licensed nurse must be on call at all times.

In addition, as an optional service, assisted living centers will be allowed to admit/retain residents who require total assistance with completing activities of daily living and/or assistance from up to 2 staff to turn/raise themselves in bed and to transfer. Those assisted living centers opting to be licensed for this optional service must also be licensed for cognitive impairment and medication administration. Nursing assessments must be conducted periodically on all residents requiring assistance and full assistance with activities of daily living must be performed by CNAs or staff that have received equivalent training. The use of mechanical lifts is allowed as long as at least two staff members are operating the lifts. Facilities licensed for this optional service must have a full-time licensed nurse working the day shift and a licensed nurse must be on call at all times, and are not eligible for a staffing exception. These rules will become effective on January 5, 2015 and can be found online at <https://rules.sd.gov/detail.aspx?id=158>. Members agreed this change in Assisted Living Center rules is a positive change and a step in the right direction to allow elders to age in place.

A question was asked if there been any push back from organizations like the South Dakota Association of Healthcare Organizations (SDAHO) or the South Dakota Health Care Association (SDHCA) regarding a concern that people who are already in a skilled nursing facility might want to go back to assisted living? Marilyn responded that she was not aware of any push back; rather that representatives of SDAHO and SDHCA were on the workgroups and both Mark Deak (SDHCA) and Wendy Mead (SDAHO), testified in support of the changes.

Marilyn shared that the update to the 2007 Long Term Care Study has not been finalized yet. Abt Associates, the consulting firm that completed the original study, is completing the update with an expected completion date of January 5<sup>th</sup>. The group agreed it would be important to meet again in January to review and discuss the study results and make recommendations.

Jen Porter shared that she heard representatives from the Department of Justice (DOJ) had been visiting South Dakota nursing facilities. Marilyn replied that the Department was aware that DOJ staff were in the state and asking questions of facilities in order to

make sure that people were being appropriately served. Part of the process was ensuring the federal requirements for the Pre Admission Screening and Resident Review (PASRR) Process was being followed. As an aside, Marilyn shared that recently South Dakota had been identified as one of six states that were considered at the top of the rating scale for their PASRR processes. Jen also mentioned that she had recently spoken with representatives from the Margaret Cargill Foundation and the Rockefeller Foundation, both philanthropic organizations, and shared contact information for some State individuals to discuss ways these foundations might be available to help providers in South Dakota. Marilyn shared that she and Yvette also met with these representatives as well.

Yvette provided an update on the Home and Community Based Services (HCBS) Settings Final Rule. The final rule was published by the Centers for Medicare and Medicaid Services (CMS) on March 17, 2014. States have one year to submit a transition plan to CMS describing how they will manage compliance with the rule in their state. The purpose of the rule is to enhance the quality of HCBS services, ensure individuals participating in waiver services receive support in the most integrated setting possible and have full access to the benefits of community living as well as establish standards and requirements for residential settings and define person centered planning requirements. According to the final rule, the setting must be integrated into the community, be selected by the individual, ensure basic rights of privacy, dignity, respect and freedom from coercion and restraint, optimize individual initiative and autonomy and facilitate individual choice. Also by rule, any setting is presumed to not meet the established standards if they are a nursing home, an institution for mental disease, an intermediate care facility for individuals with intellectual disabilities, a hospital, or if they isolate individuals from the broader community. CMS is requiring that each state assess each HCBS setting to determine compliance with the rule and submit a transition plan that describes the findings of the assessments and describes a plan to bring all setting into compliance with the final rule.

South Dakota has initiated this process by conducting a survey with all providers of residential services under the waiver programs in South Dakota, conducting staff validation surveys and gathering input from individual participants at these settings. The presumption of not being HCBS eligible simply because of proximity or co-location with a hospital/medical center or skilled nursing facility is not realistic in South Dakota. In many small towns in South Dakota with a population of 5,000 or less the only option for a person to remain in their home town, at their chosen location, or possibly to remain with their spouse, is to allow the co-location of Assisted Living services with a nursing home. It is our belief that these settings meet the intent of the rule and South Dakota intends to, as allowed by CMS, submit a request to waive the requirements of the final rule as written in these cases with the next renewal of our waiver.

Discussion was held regarding potential meeting dates in January. Vickie will check on meeting and sleeping room availability. The next meeting date is tentatively set for January 21, 2015.

Motion to adjourn was made by Gale Walker and seconded by Jen Porter. Motion was passed unanimously.

The meeting was adjourned at 11:45.

Respectfully submitted,

Vickie Maberry  
Adult Services and Aging Secretary